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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,842	05/25/2001	Tetsuro Otsubo	33596	4752
116	7590	02/02/2004	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			SMITH, CREIGHTON H	
ART UNIT		PAPER NUMBER		
2645				
DATE MAILED: 02/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	856842	Applicant(s)	OTSUBO, T. et al
Examiner	Smith, C.H.	Group Art Unit	2645

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- Responsive to communication(s) filed on _____
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- Claim(s) 1-8 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- Claim(s) _____ is/are allowed.
- Claim(s) 1-8 is/are rejected.
- Claim(s) _____ is/are objected to.
- Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on _____ is approved disapproved.
- The drawing(s) filed on _____ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All Some* None of the CERTIFIED copies of the priority documents have been received.
- received in Application No. (Series Code/Serial Number) _____
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). 3+4+5 Interview Summary, PTO-413
- Notice of References Cited, PTO-892 Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

Office Action Summary

Art Unit: 2645

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter. Sentences such as the 2nd to last sentence on page 4 make no sense to examiner. Neither do most of the other sentences throughout the spec. Applicant is to carefully re-write the spec complying with idiomatic English sentence structure.

Claims 4-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, there is no antecedent basis for "the mail address", "the unanswered call", "the incoming call". Claim 5 is not described in the spec as to how this is accomplished. Claim 6 need to be re-written because examiner has no idea what applicant means and there is no antecedent basis in the claim for "the information". Claim 7 makes no sense to the examiner because it makes no sense to examiner either. There is no antecedent basis in claim 8 for "the facsimile number" and "the unanswered call"

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Art Unit: 2645

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-8 as understood are rejected under 35 U.S.C. 102(e) as being anticipated by Martino '382 or Segal et al '251.

Martino discloses a portable telephone, in the form of a cellular telephone, col. 32, lines 5-6. Martino's phone is also capable of establishing an Internet connection, col. 6, lines 5-10. Martino discloses in col. 7, lines 55-60, that "[T]he data transactions created by the server (TAS) ...can be broadcast via the Internet or via the telephone system using a cellular, wired, or wireless modem." In col. 14, lines 33-49, Martino discloses that transaction device (12) has input and output ports (74/76) for the receipt and dissemination of facsimile data, and since the server is connectable to the Internet, that Internet data is capable of being faxed from one location to another through the use of Martino's TAS (12).

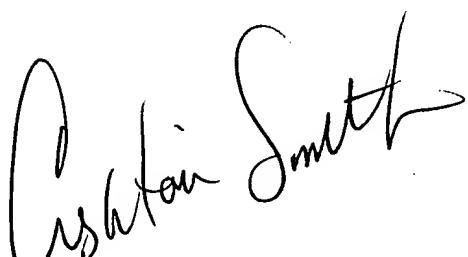
Segal et al disclose a portable cellular telephone that is capable of establishing an Internet connection (description of Fig. 32). Segal discloses in col. 29, lines 38-45, that their cellular phone is capable of reading text-based messages, and a computer can then send the message to the remote user such as by an E-mail.

Art Unit: 2645

Any inquiry concerning this communication should be directed to C Smith at telephone number 308-2488.

Creighton Smith

212 JAN. '04



Creighton Smith
Primary Examiner